IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 124 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

S I WORKS (QUARRY) PVT. LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 124 of 1986
MR JP SHAH for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 10/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the assessee, the following question has been referred to this Court for its opinion under the provisions of Section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), by the Income Tax Appellate Tribunal, Ahmedabad Bench `C'.

"Whether on the facts and in the circumstances of the case the Tribunal was right in law in disallowing interest of Rs.14,148/- under the provisions of Section 40-A (8) of the I.T. Act?"

2. Learned advocate Shri Manish Shah has appeared for the applicant-assessee, whereas Shri Akil Kureshi has appeared for the revenue.

3. The question pertains to disallowance of Rs.14,148/- under the provisions of Section 40-A (8) of the Act. Certain amount was paid by the assessee by way of interest to its shareholders and directors and, therefore, as per the provisions of Section 40-A (8), 15% of the interest paid to the Shareholders and directors had been disallowed by the Assessing Officer. Being aggrieved by the disallowance, the assessee had filed an appeal before the C.I.T. (Appeals) which was dismissed and even the appeal before the Tribunal was also dismissed.

4. Looking to the law laid down by this Court in the Case of AGEW Steel Manufacturers Pvt. Ltd. v. Commissioner of Income Tax 209 I.T.R. 77, in our opinion, the revenue was justified in disallowing 15% of the amount of interest paid by the assessee-company to its directors and shareholders.

5. In view of the clear legal position, we answer the question in the affirmative i.e., in favour of the revenue and against the assessee.

The reference thus stands disposed of accordingly with no order as to costs.

10.7.2001. (A.R. Dave, J.)

(D.A. Mehta, J.)

/phalguni/